Supreme Court, U. S.
FILED
AUG 15 1979
MICHAEL RODAK, JR., CLERK

IN THE SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C. 20543

OCTOBER TERM 19___

NO. _____ 79-251

Earl L. Sappington, CPA
V
Paul R. Beckert, President Judge, Et Al.

DIRECT APPEAL
FROM UNITED STATES DISTRICT COURT,
EASTERN DISTRICT OF PENNSYLVANIA

JURISDICTIONAL STATEMENT

REPRESENTING SELF:

Earl L. Sappington, CPA
2 Cherry Lane
Levittown, Pa. 19055

REPRESENTING DEFENDANTS:

Jonathan Vipond III, Esq., and
Kathleen M. Quinn, Esq.
1414 Three Penn Center Plaza
Philadelphia, Pa. 19102

John P. Koopman, Esq.
Begley, Carlin, Mandio & Popkin
120 Mill Street
Bristol, Pa. 19007

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IN THE SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C. 20543

OCTOBER TERM 19___

NO. _____

Earl L. Sappington, CPA, Plaintiff-Appellant

Versus

Paul R. Beckert, President Judge, Et Al.,

Defendants-Appellees

JURISDICTIONAL STATEMENT

I. OPENING STATEMENT AND OPINION BELOW

Earl L. Sappington, Plaintiff-Appellant, makes his appeal directly to this Court from the U. S. District Court of Judge Alfred L. Luongo,Eastern District of Pennsylvania (Case No. 79-1758, a civil rights action), who dismissed the action with utter disregard of plaintiff-appellant's constitutional rights enforceable by federal statutes.

II. JURISDICTION.

1. The grounds on which the jurisdiction of this Court is invoked are as follows:

Statutes of the United States have, in effect, been declared inoperative against the defendants as though they had never been passed by Congress. There has, however, been no indication that Judge

Luongo has certified this case to the Attorney General, but 28 U. S. C. Section 2403 may be applicable. The statutes pursuant to which this appeal is made are: Title 42 U.S.C. Sections 1983, 1985, and 1986, which are codifications of The Civil Rights Act of 1871.

2. Judge Luongo made and filed his Memorandum and his Order on July 10, 1979. Plaintiff-appellant filed his Notice of Appeal to this Court on July 12, 1979, in the United States District Court, Eastern District of Pennsylvania, Philadelphia, Pa. (See Appendix A for a copy of the Memorandum and Order, and Appendix B for a copy of the Notice of Appeal.)

3. Title 28 U.S.C.A. Section 1252 authorizes direct appeal to the Supreme Court of the United States from District Court decisions that tend to invalidate Acts of Congress.

4. Cases believed to sustain the jurisdiction of this Court:

Stump V. Sparkman, 435 U.S. 349 (1978);
Monell V. Department of Social Services of the City of New York, 436 U.S. 658 (1978) ;
Pierson V. Ray, 386 U.S. 547 (1967);
Tenney V. Brandhove, 341 U.S. 367;
Bradley V. Fisher, 13 Wallace 335 (1872);
Querne V. Jordan, 47 L.W. 4241 (1979).

5. Statutes relied upon are quoted below:

(1) Section 1983, 42 U.S.C.S.:

"Every person who under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the constitution and laws, shall be liable to the party injured in any action at law, suit in equity, or other proper proceeding for redress."

(2) Section 1985, 42 U.S.C.S., which is the conspiracy statute, states in paragraph (2) that it is (among other offenses) conspiracy and obstructing justice:

"...if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to equal protection of the laws".

(3) Section 1986, 42 U.S.C., Action For Neglect To Prevent:

"Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in Section 1985 of this title, are about to be committed and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representative, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action;..."

III. QUESTIONS PRESENTED:

1. Does "Every person Who..." in Sections 1983 and 1986 mean <u>every</u> person who...?

2. Do federal statutes, Sections 1983, 1985, and 1986 override, supersede, and nullify conflicting common law?

3. Are judges immune to prosecution under Sections 1983, 1985, and 1986 of Title 42 U.S.C.?

4. Can the judge blanket and protect his co-violators with his immunity, if he has any?

IV. STATEMENT OF THE CASE:

1. Facts of the case:

Judge Beckert was the main offender to which Section 1983 applied, and the leader in the conspiracy to obstruct justice. He exhibited a determination that a CPA representing himself in <u>his</u> court, after <u>he</u> had advised him (by mail) to get a lawyer, would win <u>nothing</u>, nor would he get a dismissal that he could appeal. This became apparent after pursuing this small claim court judgment (awarded to appellant August 30, 1976) from September 13, 1976 (date of appeal by defendant, Lease-Lite Mfg. Co.) to May 16, 1979, when plaintiff-appellant filed complaint in the United States District Court (about 2 years and 8 months later). Nothing the plaintiff-appellant could do would move Judge Beckert to action.

Judge Beckert ignored several of his own court civil procedures, while saying (in his orders) that plaintiff-appellant was not complying. He made <u>no</u> attempt to find out if there were true issues to be tried (he knew there were none). Plaintiff-appellant has never even met Judge Beckert. He never called us together. Nor did he make any demands on the defendant, Lease-Lite Mfg. Co. to develop its case, if any. There is

also strong presumption of political and fraternal considerations here.

The other named defendants went along with and supported Judge Beckert in his farcical misrepresentations, in a bad-faith suit to begin with, to deprive plaintiff-appellant of his property (small claim court judgment) and other civil rights, thus making themselves liable under Sections 1983 (they also misrepresented civil procedures), 1985 and 1986, 42 U.S.C.

2. Judge Luongo's Memorandum and final Order here appealed:

Although Sections 1983 and 1986 of 42 U.S.C. apply to "Every person who..." violates their provisions, Judge Luongo, in his Memorandum, said that judges are immune to their prohibitions and penalties, and so are all other persons who violate the Acts' provisions in conspiracy with a judge. To quote one sentence:

"As for the charge of conspiracy, private persons cannot conspire, within the meaning of the civil rights statute, with a state official entitled to immunity". (See Appendix A).

This would carry citizens of the United States away back to divine rights of kings and their hired thugs.

3. Summary of Proceedings in Judge Luongo's District Court of the United States:

On May 16, 1979 plaintiff-appellant filed complaint in the United States District Court, invoking statutes 42 USCS Sections 1983, 1985(2), 1986 and 1988, and 28 USCA Sections 1331(a), 1343, and 1391(b).

Plaintiff-appellant finally, with subpoena, secured copies of Docket Entries of Judge Beckert's proceedings, showing numerous reckless, laconic denials of plaintiff-appellant's motions. This is part of the record.

Defendants, in two groups, motioned to dismiss, citing the common law. Plaintiff-appellant opposed, using roughly the same arguments presented to this Court.

Judge Luongo, citing case law, which accepted the common law over the cited federal statutes, dismissed the action against the defendants, saying:

"...it is ordered that defendants' Motions to Dismiss are GRANTED". (See Appendix A).

4. The Federal Questions Are Substantial.

One hundred and eight years ago, Congress passed The Civil Rights Act of 1871, later codified as 42 USC Sections 1983, 1985, and 1986.

This Act was passed expressly for the purpose of enforcing Section 1 of the 14th Amendment of the Constitution of the United States and federal statutes against the excesses of state officials and local government officials operating under the constitution and laws of the states, counties and municipalities.

The Supreme Court, however, steeped in the traditions of the common law, chose to not believe what it saw, and illogically hedged, making various exceptions to this law.

But finally, in Monell V. Department Of Social Services Of The City Of New York, 436 U.S. 658 (June 6, 1978), the Supreme Court corrected previous erroneous reasoning of the Court when it said:

"...in addition, that history confirms that local governments were intended to be included among the 'persons' to which 1983 applies. Accordingly, Monroe V. Pape is overruled insofar as it holds that local governments are wholly immune from suit under Section 1983".

5. In essence the Court said in Monell, supra, that we are now correcting the following type of reasoning:

"Every person who..." in Sections 1983 and 1986 does not mean "Every person who" for Congress did

not say "Every person who, including judges...".

This is just the type of reasoning demonstrated in Stump V. Sparkman, 435 U.S. 349 (March 28, 1978, just over two months before Monell), using a previous case as authority as follows:

"Later we held that this doctrine of judicial immunity was applicable in suits under Section 1 of the Civil Rights Act of 1871, 42 U.S.C. Section 1983, for the legislative record gave no indication that Congress intended to abolish this long-established principle, Pierson V. Ray, 386 U. S. 547 (1967).".

6. Thus the March 28, 1978 Court agreed with the 1967 Court when it changed a Congressional statute from a universal proposition, "Every person who..." to a particular proposition, " Some persons who...", because Congress had not said "Every person who, including judges".

7. The Court recognized in Monell, supra, without saying so in these exact words, that to change a universal proposition to a particular proposition is not interpretation, but legislation, since interpretation must always come up with equivalent propositions.

But Mr.Justice Douglas said it all, and said it so much better in his dissenting opinion in Pierson V. Ray, 386 U.S. 547 (1967). Excerpts

are quoted as follows:

"...To most, 'every person' would mean every person, not every person except judges. Despite the plain import of those words the Court decided in Tenney V. Brandhove, 341 U.S. 367, that state legislators are immune from suit as long as the deprivation of civil rights which they caused a person occurred while the legislators 'were acting in a field where legislators traditionally have power to act'. Id. at 379. I dissented from the creation of that judicial exception as I do from the creation of the present one.". (Emphasis on creation added). 386 U. S. at 559.

As Justice Douglas practically said, these immunities are pure creation on the part of the Court after the Civil Rights Act of 1871 was passed. Justice Douglas cites many statements of the 42nd Congress that made it very clear that they considered thoroughly the question of judicia immunity, and Justice Douglas said he thought that if they had intended not to include judges in the provisions of Section 1983, Congress would have said so.

Justice Douglas said further that:

"Mr. Rainey of South Carolina noted (T)he courts are in many instances under the control of those who are wholly inimical to the impartial

administration of law and equity'. Id. at 394".

8. All of the above notwithstanding, Judge Luongo based his decision mainly on Stump V. Sparkman, 435 U.S. 349 (March 28, 1978), which, rather than look to the law (Section 1983, 42 U.S. C.),rested its case on its own authority, Pierson V. Ray, supra, which in its turn had turned to, as its authority, Bradley V. Fisher, 13 Wallace 335 (1872), which, seemingly oblivious of the Civil Rights Act of 1871 (just passed by Congress the year before), relied almost exclusively on old English law, the common law. See the following excerpt from Mr. Justice Field's opinion of the Court in Bradley, supra:

"...The principle, therefore, which exempts judges of courts of superior or general authority from liability in a civil action for acts done by them in the exercise of their judicial functions, obtains in all countries where there is any well-ordered system of jurisprudence. It has been the settled doctrine of English courts for many centuries, and has never been denied, that we are aware of, in the courts of this country. It has, as Chancellor Kent observes, 'a deep root in the common law'. (Yates V. Lansing,5 Johnson, 291." (Emphasis added).

Mr. Justice Fields seems to be saying for the Court that never mind what Congress said the year before, the Courts have never denied it.

V. CONCLUSION:

1. The questions raised here are absolutely basic to the meaning of our democracy, and to the separation of powers between the Executive, the Legislative, and the Judicial branches of our government. Furthermore, the answers are spelled out clearly in the Civil Rights Act of 1871. We should not still be quibbling about the meaning of this Act after 108 years. Plenary consideration to this important matter is urgent.

2. Plaintiff-appellant is depending on the wisdom of the Court shown in Monell V. Department Of Social Services, supra, and in Justice Brennan 's "Concurring In The Judgment" of Querne V. Jordan, 47 L.W. 4241 (1979) in which he states in Part II, first paragraph:

"...The fifth section of the Amendment (14th) provides Congress with the power to enforce these prohibitions 'by appropriate legislation', 'Congress, by virtue of the fifth section ... may enforce the prohibitions whenever they are disregarded by either the Legislative, the Executive, or the Judicial Department of the State. The

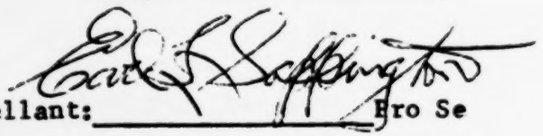
mode of enforcement is left to its discretions'. Virginia V. Rives, 100 U.S. 313, 318 (1879)". (Emphasis added).

Justice Marshall in his "Concurring In The Judgment" of the same case, agreed with Justice Brennan.

3. It is abhorrent to the U. S. Constitution and our federal statutes for the Court to set up an island of despotism from which citizens of the United States have no appeal.

4. Plaintiff-appellant asks that the Court answer fully the questions raised here, and reverse the order of Judge Luongo and remand the case.

Respectfully submitted,



Plaintiff-Appellant: _____ Pro Se

Earl L. Sappington, CPA
2 Cherry Lane
Levittown, Pa. 19055
(215) 949-2162

P. S. Plaintiff-Appellant's certificate of service is on the following page.

CERTIFICATE OF SERVICE

Earl L. Sappington, plaintiff-appellant in the above captioned matter, hereby certifies that three (3) copies to each of the within "Jurisdictional Statement" were sent by certified mail to the following defendants' attorneys on August 13, 1979, and to the Solicitor General pursuant to 28 U.S.C. Sec. 2403:

Jonathan Vipond III, Esq., and
Kathleen M. Quinn, Esq.
1414 Three Penn Center Plaza
Philadelphia, Pa. 19102

John P. Koopman, Esq.
Begley, Carlin, Mandio & Popkin
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Solicitor General
Department Of Justice
Washington, D. C. 20530

Plaintiff-Appellant: Earl L. Sappington Pro Se

Earl L. Sappington, CPA
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APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EARL L. SAPPINGTON, CPA	:	CIVIL ACTION
V.		
PAUL R. BECKERT, President Judge Court of Common Pleas of Bucks County, Pennsylvania	:	Filed July 10,1979
LEASE-LITE MANUFACTURING CO.	:	
LEONARD MYELLE, General Partner	:	
STEPHEN R. LaHODA, ESQUIRE, Lease-Lite Attorney (First)	:	
JAMES J. AUCHINLECK, JR., ESQUIRE Lease-Lite Attorney (Second in Succession)	:	
THOMAS R. HECKER, ESQUIRE, Lease-Lite Attorney (Third in Sucession)	:	No. 79-1758

MEMORANDUM

LUONGO, J. JULY 10,1979

This is a suit seeking damages for alleged violation of plaintiff's rights emanating from proceedings in a state court. The defendants are Paul R. Beckert, Judge of the Court of Common Pleas of Bucks County; Lease-Lite Manufacturing Co. and Leonard Myelle, its general partner whom plaintiff had sued in Small Claims Court and who appealed an adverse ruling to the Court of

(APPENDIX)

Common Pleas; and three attorneys who successively represented Lease-Lite and Myelle.

All defendants have moved to dismiss. Their motions will be granted. Judge Beckert is entitled to dismissal on the ground of judicial immunity. Stump v. Sparkman, 435 U.S. 349 (1978). The other defendants clearly did not act under "color of law", within the meaning of the Civil Rights Acts. Myer v. Curran, 397 F. Supp. 512, 518 (E.D. Pa. 1975); Kovacs v. Goodman, 383 F. Supp. 507, 509 (E.D. Pa. 1974), aff'd, 515 F.2d 507 (3d Cir. 1975).

As for the charge of conspiracy, private persons cannot conspire, within the meaning of the civil rights statute, with a state official entitled to immunity. Myer v. Curran, supra at 519 (collecting cases). Here the only state official with whom the other defendants allegedly conspired was Judge Beckert, who was protected by judicial immunity and the charge of conspiracy must likewise fall.

S/ Alfred L. Luongo
J.

(APPENDIX)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EARL L. SAPPINGTON, CPA	:	CIVIL ACTION
v.		
PAUL R. BECKERT, President Judge Court of Common Pleas of Bucks County, Pennsylvania	:	
LEASE-LITE MANUFACTURING CO.	:	
LEONARD MYELLE, General Partner	:	
STEPHEN R. LaHODA, ESQUIRE, Lease-Lite Attorney (First)	:	
JAMES J. AUCHINLECK, JR., ESQUIRE Lease-Lite Attorney (Second in Succession)	:	
THOMAS R. HECKER, ESQUIRE, Lease-Lite Attorney (Third in Succession)	:	No. 79-1758

O R D E R

This 10th day of July, 1979, it is ORDERED that defendants' Motions to Dismiss are GRANTED.

S/ Alfred L. Luongo
J.

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
PHILADELPHIA, PENNSYLVANIA

Earl L. Sappington, CPA, Plaintiff-Appellant : CA79-1758

V : Civil Rights Action

Paul R. Beckert, President Judge, Et Al., Defendants

NOTICE OF DIRECT APPEAL
TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that Earl L. Sappington, CPA, plaintiff-appellant above named, hereby makes a direct appeal to the Supreme Court of the United States from the final judgment of District Judge Alfred L. Luongo ordering "that defendants' Motions to Dismiss are GRANTED", filed on the 10th day of July, 1979.

1. This order, in application, nullifies the Civil Rights Act of 1871, codified as 42 U.S.C. Sections 1983, 1985, 1986 and 1988 as it applies to judges, lawyers and those who conspire with them.

2. This appeal is taken under authority of 28 USCA Section 1252.

Plaintiff-Appellant: Earl L. Sappington Pro Se

Date: July 12, 1979 Earl L. Sappington, CPA
(Address and Telephone No. given.)

CERTIFICATE OF SERVICE

Earl L. Sappington, plaintiff-appellant in the above captioned matter, hereby certifies that a true and correct copy of the within "Notice Of Direct Appeal To The Supreme Court Of The United States" was sent by certified mail to the following defendants' attorneys on July 12, 1979:

Jonathan Vipond III, Esq., and
Kathleen M. Quinn, Esq.
1414 Three Penn Center Plaza
Philadelphia, Pa. 19102

John P. Koopman, Esq.
Begley, Carlin, Mandio & Popkin
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Plaintiff-Appellant: Earl L. Sappington Pro Se

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Supreme Court, U. S.
FILED
SEP 13 1979
ROBAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1979 No. 79-251

EARL L. SAPPINGTON, CPA, *Appellant*

v.

PAUL R. BECKERT, PRESIDENT JUDGE, et al., *Appellees*

MOTION TO DISMISS

Appeal from the Judgment of the United States District Court for the Eastern District of Pennsylvania, at No. 79-1758, Order dated July 10, 1978.

Jonathan Vipond, III
Kathleen M. Quinn
Attorneys for Appellee,
THE HONORABLE PAUL R. BECKERT

1414 Three Penn Center Plaza
Philadelphia, Pa. 19102
(215) 567-3071

THE LEGAL INTELLIGENCER, 66 NORTH JUNIPER STREET, PHILA., PA. 19107 (215) 561-4050

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1979 No. 79-251

EARL L. SAPPINGTON, CPA, *Appellant*

v.

PAUL R. BECKERT, PRESIDENT JUDGE, et al., *Appellees*

MOTION TO DISMISS

The Appellee, the Honorable Paul R. Beckert, moves this Court to dismiss the appeal in the above entitled case on the ground that this Court lacks jurisdiction over this appeal.

STATEMENT

In this proceeding, Earl L. Sappington seeks to take a direct appeal from an order of the United States District Court for the Eastern District of Pennsylvania dismissing his civil rights complaint against the Honorable Paul R. Beckert on the grounds of judicial immunity.

Mr. Sappington's complaint sought money damages from Judge Beckert for allegedly delaying a court proceeding in which Mr. Sappington was involved.

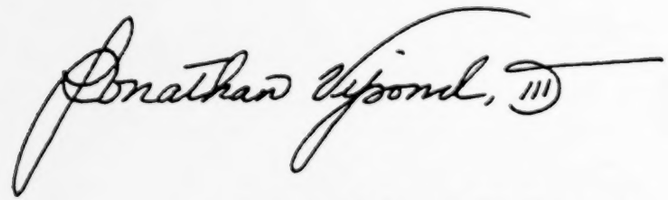
Mr. Sappington's sole contention on appeal is that judicial immunity is not applicable to suits brought under the Civil Rights Act of 1871.

ARGUMENT

United States statutes provide for direct appeals to this Court from the orders of district courts in only two instances: (1) when a district court has held an Act of Congress unconstitutional in a civil action to which the United States or any of its agencies, officers or employees is a party, 28 U.S.C. §1252; and (2) when a three-judge district court has granted or denied an injunction in a civil action, 28 U.S.C. §1253. Obviously, neither of these situations is presented here. Nor could this case be brought to this Court on a petition for certiorari. Federal law does not provide for certiorari by the Supreme Court from orders of district courts. 28 U.S.C. §1251 *et seq*. This appeal should properly be brought in the circuit court of appeals. 28 U.S.C. §1291.

CONCLUSION

For the foregoing reason, the Appellee, the Honorable Paul R. Beckert, asks this Court to dismiss this appeal.



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Attorneys for Appellee,
The Honorable Paul R. Beckert

Supreme Court, U. S.
FILED
OCT 23 1979
MICHAEL MODAK, JR., CLERK

IN THE SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C. 20543

OCTOBER TERM 1979
NO. 79-251

EARL L. SAPPINGTON, CPA, APPELLANT
VERSUS
PAUL R. BECKERT, PRESIDENT JUDGE, ET AL.,
APPELLEES

PETITION FOR REHEARING OF JUDGMENT NOT TO HEAR CASE

APPELLANT REPRESENTING SELF:

Earl L. Sappington, CPA
2 Cherry Lane
Levittown, Pa. 19055

REPRESENTING APPELLEES:

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Kathleen M. Quinn, Esquire
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1414 Three Penn Center Plaza
Philadelphia, Pa. 19102

John P. Koopman, Esquire
Begley, Carlin, Mandio & Popkin
120 Mill Street
Bristol, Pa. 19007

IN THE SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C. 20543

OCTOBER TERM 1979
NO. 79-251

EARL L. SAPPINGTON, CPA, APPELLANT
VERSUS
PAUL R. BECKERT, PRESIDENT JUDGE, et al.,
APPELLEES

PETITION FOR REHEARING
OF JUDGMENT OF 10-9-79 NOT TO HEAR CASE

1. The Supreme Court made a very serious error in Bradley v. Fisher, 13 Wallace 335 (1872). The Court decreed that a common law (judicial immunity) supersede a contradicting Congressional statute, the Civil Rights Act of 1871, thus changing the Congressional universal proposition, "Every person who..." to a particular proposition, "Some persons who...", thus "enabling" the Court to exempt several categories of individuals and the mythical state from the law. That unconstitutional act usurped the legislative powers of Congress, and has caused repeated injustice to many U. S. citizens; all cases built on the sand of Bradley. This also "enabled" the Court to change the 11th Amendment to work against a state's own citizens.

2. It is inconceivable that this error (many times compounded) could last in this country for 107 years.

One would expect this Supreme Court to grasp at the chance to correct such glaring injustice. Appellant wonders where the House Judiciary Committee has been sitting all this time.

3. What a wonderful opportunity for the Supreme Court of the United States to move away from the King, and show a puzzled American people that though it does have monarchical tendencies, it is essentially just, and will no longer attempt to shield the unlawful acts of its law practitioners with the King's immunity from prosecution, and henceforth will insist that attorneys in their morning coats, and judges with crooked political bent, will just have to take their chances with the law like all the rest of us professionals.

4. Section 1252, 28 U.S.C.A., invoked for this appeal, is ambiguous, but can be correctly interpreted with the last phrase referring to the United States as a party as being only another category of circumstances enabling direct appeal.

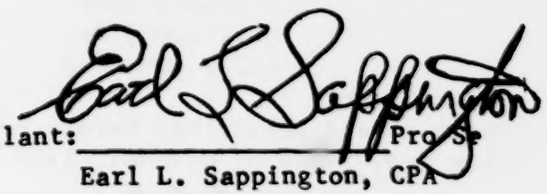
5. Appellant had every reason to think that Section 1252 gave jurisdiction to the U. S. Supreme Court in this case. But the King would want it that way, ambiguous, so he could go either way at will. The American people have finally asked the question: Has the interpreter of the King become the King during his exile?

6. Appellant has noticed that when the Supreme Court wants a case, it hears it, and worries about jurisdiction later. He is thinking of the Richmond Newspaper, Inc. case of Virginia, taken this term by the Court to clarify the Gannet decision.

7. Appellant does not wish to think that the Supreme Court wishes to further compound past injustices by taking advantage of an ambiguous statute to kill his case completely without a hearing. For the Third Circuit Court of Appeals to hear this case now, the Court would have to instruct it to count the time for appeal from 10-9-79, the date of the Court's order. But, among judges, only the Supreme Court can set right its past mistakes. Justice requires a decision on the merits of this case by the Supreme Court.

8. Appellant respectfully requests the Supreme Court to reconsider its order of 10-9-79 and hear this case.

Respectfully submitted,



Appellant: _____ Pro Se

Earl L. Sappington, CPA
2 Cherry Lane
Levittown, Pa. 19055

P.S. Appellant's Good Faith and Service affidavit is on the following page.

AFFIDAVIT OF GOOD FAITH AND SERVICE

Earl L. Sappington, being duly sworn according to law, deposes and says that he, being the appellant in the above-captioned matter, has petitioned the Supreme Court in good faith and not for delay. He further states that he has served three true and correct copies each of this "Petition For Rehearing..." to all parties required to be served, namely, the following attorneys representing the appellees, and to U. S. Solicitor General, pursuant to 28 U.S.C. A. § 2403. Service was made on October 10, 1979 by certified mail:

Jonathan Vipond III, Esquire, and
Kathleen M. Quinn, Esquire
The Adm. Office of Penna. Courts
1414 Three Penn Center Plaza
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John P. Koopman, Esquire
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Solicitor General
U. S. Department of Justice
Washington, D. C. 20530

Appellant: Earl L. Sappington Pro Se

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Levittown, Pa. 19055
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Bucks County, Pa.
Sworn to and subscribed before me
this 18th day of October, 1979

Florence S. Kinney

Florence S. Kinney, Notary Public
Bristol Township, Bucks County
My Commission Expires June 22, 1981